

Corrected Exhibit 8

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HERMÈS INTERNATIONAL and
HERMÈS OF PARIS, INC.,

Plaintiffs,

v.

MASON ROTHSCHILD,

Defendant.

Civil Action No. 22-cv-00384-JSR

**DEFENDANT MASON
ROTHSCHILD'S SECOND
AMENDED PROPOSED
WITNESS AND EXHIBIT LIST**

Pursuant to Fed. R. Civ. P. 26(a)(3) and Judge Rakoff's Individual Rules of Practice, Defendant Mason Rothschild hereby makes the following disclosures about the evidence that he may present at trial:

Witnesses¹

Expect to Call:

1. Mason Rothschild

Subject matter: Mr. Rothschild's background; conception, execution, promotion, public relations, and sales of Mr. Rothschild's various art projects, including without limitation *MetaBirkins*; Mr. Rothschild's business ventures; technical aspects of NFTs, blockchain, and the metaverse; the claims and defenses in this case; any other topics discussed in Mr. Rothschild's affidavits or deposition testimony.

2. Kenneth Loo

Subject matter: Mr. Loo's background, resume, and clients; the history and nature of Mr. Rothschild's *Baby Birkin*, *MetaBirkins*, and other art projects; public relations related to Mr. Rothschild's art projects; Mr. Rothschild's conduct and status as an artist and creator of art projects; any other topics discussed in Mr. Loo's deposition testimony.

¹ Mr. Rothschild reserves the right to call additional witnesses for purposes of impeachment or rebuttal.

3. Nicolas Martin
Subject matter: Hermès' plans for NFTs; Hermès' U.S. trademark registrations; Hermès' view of and response to Baby Birkin, MetaBirkins, and other artwork related to Hermès and/or its products; Hermès' revenue and profits in 2021 and 2022; Hermès' evidence of confusion; Hermès' evidence of damages; Hermès discovery responses, pleadings, and motion papers; the claims and defenses in this case; any other topics discussed in Mr. Martin's affidavits or deposition testimony.
4. Dr. Blake Gopnik (Defendant's expert)
Subject matter: Dr. Gopnik's background and resume; whether Mr. Rothschild's *MetaBirkins* may properly be understood to be art in the context of art history; whether Mr. Rothschild's conduct was consistent with his expressed artistic intentions relating to *MetaBirkins*; any other topics discussed in Dr. Gopnik's expert report, affidavit, or deposition testimony.
5. Dr. David Neal (Defendant's expert)
Subject matter: Dr. Neal's background and resume; Dr. Isaacson's survey and report; likelihood of confusion; any other topics discussed in Dr. Neal's expert report or deposition testimony.

May Call:

6. David Cohen
Subject matter: Mr. Cohen's background and resume; Electric Feel; Mr. Rothschild's art projects; Mr. Rothschild's conduct and status as an artist and creator of art projects; any other topics discussed in Mr. Cohen's deposition testimony.
7. James Kerr or other Consilio Representative
Subject matter: Screenshots of Discord messages produced during summary judgment briefing; Mr. Rothschild's discovery efforts.
8. Dr. Bruce Isaacson (Plaintiffs' expert)
Subject matter: Dr. Isaacson's survey and report; likelihood of confusion; any other topics discussed in Dr. Isaacson's expert report, affidavit, or deposition testimony.

Exhibits²

Ex.	Description	Starting Bates No.	Ending Bates No.
501	Birkin handbag		
502	Campbell's Soup can		

² Mr. Rothschild reserves the right to add exhibits and demonstratives comprising publicly available information. Mr. Rothschild additionally reserves the right to introduce additional exhibits for rebuttal, impeachment, or other purposes. Mr. Rothschild also reserves the right to amend and supplement this initial list of trial exhibits.

503	Andy Warhol, <i>Campbell's Soup Cans</i> (1962) (www.moma.org/collection/works/79809)		
504	René Magritte, <i>The Treachery of Images (This is Not a Pipe)</i> (1929) (https://collections.lacma.org/node/239578)		
505	<i>MetaBirkins</i> website (www.metabirkins.com)		
506	<i>MetaBirkins</i> public Instagram account (@metabirkins)		
507	Gunna song, "Baby Birkin" (2019)		
508	Cardi B song, "Up" (2021)		
509	Beyoncé song, "Summer Renaissance" (2022)		
510	Webpage advertising Tyler Shields, <i>Glitter Birkin</i> (2018) (Ex. 12 from August 30, 2022, deposition of Nicolas Martin)		
511	Webpage advertising Tyler Shields, <i>Money Birkin</i> (2020) (https://www.1stdibs.com/art/photography/color-photography/tyler-shields-money-birkin-56-x-72/id-a_10816022/)		
512	Webpage advertising Becky Rosa, <i>Hermès Black</i> (Ex. 13 from August 30, 2022, deposition of Nicolas Martin)		
513	Faran Krentcil, "This 100-pound, stone-carved Birkin bag is still cheaper than the real thing," <i>NY Post</i> , September 4, 2016 (Ex. 16 from August 30, 2022, deposition of Nicolas Martin)		
514	September 22, 2019, Collecting Luxury blog post titled "Barbara Segal - Artist of the Rare Stone 'Birkin' Sculpture" located at https://www.collectingluxury.com/blog-1/2019/9/22/barbara-segal-artist-of-the-rare-stone-birkin-sculpture		
515	Turbosquid.com webpage advertising "Hermes - Birkin Crocodile Bag" 3-D model (Ex. 15 from August 30, 2022, deposition of Nicolas Martin)		
516	Photograph of CJ Hendry pencil drawing of Birkin bag (Ex. 14 from August 30, 2022, deposition of Nicolas Martin and @cj_hendry Instagram post dated August 19, 2016)		
517	Tom Sachs: Rocket Factory webpage, "Deez Nuts" at https://tomsachsrocketfactory.com/rocket/8/deez-nutz		

518	Clip from <i>Sex and the City</i> season 4, episode 11, “Coulda, Woulda, Shoulda” (2001) located at https://www.youtube.com/watch?v=GDKmQP_vDOY		
519	Clip from <i>Gilmore Girls</i> , season 6, episode 6, “Welcome to the Dollhouse” (2005) located at https://www.youtube.com/watch?v=e6yhvgXuA7w		
520	<i>The Proposal</i> (2009) film clip showing Sandra Bullock’s character with Birkin bag		
521	<i>Blue Jasmine</i> (2013) film clip showing Cate Blanchette’s character with Birkin bag		
522	Webpage titled “Mason Rothschild ‘THE ART SCHOOL DROPOUT’ T-Shirt Collection” on hypebeast.com	HERMES_0010553	HERMES_0010553
523	Foundation Labs public “Mason Rothschild” webpage showing <i>Do Not Sit</i> NFT artworks at https://foundation.app/@masonrothschild		
524	Basic Space public webpage for <i>Baby Birkin</i> at https://basic.space/products/baby-birkin		
525	OpenSea public webpage for <i>I Like You, You’re Weird</i> at https://opensea.io/collection/ilyyw		
526	Yellow Heart public webpage titled “Floaties NFT Edition SCOPE Platinum VIP” at https://yh.io/item-details/floaties-%7C-nft-edition-scope-platinum-vip/aZDjQ1B3F0Xa8e0v		
527	OpenSea public webpage for <i>I Hate You, You’re Scary</i> at https://opensea.io/collection/ihyys		
528	Emails from Mason Rothschild to self and to Cedar Pasori dated November 17, 2021	Rothschild0014825	Rothschild0014825
529	Press Release titled “‘BABY BIRKIN NFT’ BY MASON ROTHSCHILD AND ERIC RAMIREZ”	KLOO_0000002	KLOO_0000003
530	Press Release titled “ARTIST MASON ROTHSCHILD UNLEASHES 100 ‘METABIRKINS’ NFTS DURING ART BASEL MIAMI 2021”	KLOO_0000004	KLOO_0000006
531	Instagram post by @electricfelelnt announcing signing of Mason Rothschild (Ex. 170 to transcript of deposition of David Cohen dated September 22, 2022)		
532	Whatsapp messages between Mason Rothschild and “Mark Design” dated March 18, 2021	Rothschild011242	Rothschild011278
533	Whatsapp messages between Mason Rothschild and “Mark Design” dated April 8, 2021	Rothschild011356	Rothschild011359

534	Whatsapp messages between Mason Rothschild and "Mark Design" dated April 14, 2021	Rothschild011391	Rothschild011409
535	Whatsapp messages between Mason Rothschild and "Mark Design" dated April 16, 2021	Rothschild011416	Rothschild011428
536	Whatsapp messages between Mason Rothschild and "Mark Design" dated April 18, 2021	Rothschild011433	Rothschild011485
537	Whatsapp messages between Mason Rothschild and "Mark Design" dated October 4, 2021	Rothschild014566	Rothschild014594
538	Whatsapp messages between Mason Rothschild and "Mark Design" dated October 15, 2021	Rothschild014643	Rothschild014645
539	Whatsapp messages between Mason Rothschild and "Mark Design" dated October 16, 2021	Rothschild014647	Rothschild014655
540	Whatsapp messages between Mason Rothschild and "Mark Design" dated October 18, 2021	Rothschild014660	Rothschild014663
541	Whatsapp messages between Mason Rothschild and "Mark Design" dated October 19, 2021	Rothschild008303	Rothschild008320
542	Whatsapp messages between Mason Rothschild and "Mark Design" dated October 24, 2021	Rothschild014683	Rothschild014685
543	Whatsapp messages between Mason Rothschild and "Mark Design" dated October 27, 2021	Rothschild014687	Rothschild014694
544	Whatsapp messages between Mason Rothschild and "Mark Design" dated October 31, 2021	Rothschild014698	Rothschild014702
545	Whatsapp messages between Mason Rothschild and "Mark Design" dated November 3, 2021	Rothschild008398	Rothschild008404
546	Whatsapp messages between Mason Rothschild and "Mark Design" dated November 4, 2021	Rothschild008409	Rothschild008443
547	Whatsapp messages between Mason Rothschild and "Mark Design" dated November 5, 2021	Rothschild014705	Rothschild014712
548	Whatsapp messages between Mason Rothschild and "Mark Design" dated November 9, 2021	Rothschild014728	Rothschild014734
549	Whatsapp messages between Mason Rothschild and "Mark Design" dated November 10, 2021	Rothschild014738	Rothschild014752
550	Whatsapp messages between Mason Rothschild and "Mark Design" dated November 17, 2021	Rothschild014796	Rothschild014802
551	Invoice from Snail House to Mason Rothschild dated July 20, 2021	Rothschild008283	Rothschild008283
552	Birkin.xlsx (spreadsheet with heading "BIRKINS")	Rothschild017791	Rothschild017791
553	Figma file - Untitled.fig	Rothschild018620	Rothschild018620

554	Email chain between Kenneth Loo, Alyssa Kelly, and Mason Rothschild including Clara Jeon dated December 18, 2021	Rothschild016295	Rothschild016296
555	Email chain between Mason Rothschild and Lauren Moberg dated May 14, 2021	Rothschild014325	Rothschild014328
556	Messages between Mason Rothschild and “Eric Ram” dated October 24, 2021	Rothschild008352	Rothschild008359
557	Messages between Mason Rothschild and Jesse Lee dated December 18, 2021	Rothschild016171	Rothschild016182
558	Messages between Mason Rothschild and Cedar Pasori dated January 31, 2022	Rothschild017238	Rothschild017244
559	Messages between Mason Rothschild and Garrett McManus dated January 21, 2022	Rothschild017130	Rothschild017140
560	Messages between Mason Rothschild and Kenneth Loo dated February 3, 2022	Rothschild017310	Rothschild017312
561	Messages between Mason Rothschild and Amber Park dated December 11, 2021	Rothschild015492	Rothschild015496
562	Messages between Mason Rothschild and 42173723990 dated January 20, 2022	Rothschild017121	Rothschild017121
563	Plaintiffs Hermès International and Hermès of Paris, Inc.’s Responses to Defendant Rothschild’s First Set of Requests for Admission		
564	Amended Complaint (ECF No. 24)		
565	Screenshot of <i>MetaBirkins</i> website as accessed on December 1, 2021	HERMES_0037671	HERMES_0037672
566	@MasonRothschild Twitter post dated October 29, 2021	HERMES_0009801	HERMES_0009801
567	Image of <i>MetaBirkin</i> with banana	Rothschild009797	Rothschild009797
568	Emails from Mason Rothschild to Benjamin Milstein dated December 17 and December 19, 2021	Rothschild009508	Rothschild009509
569	Messages from Mason Rothschild to Alex Sacks, Truman Sacks, and Jesse Lee dated December 13, 2021	Rothschild015521	Rothschild015522
570	Message exchange between Mason Rothschild and Truman Sacks including Alex Sacks and Jesse Lee dated December 13, 2021	Rothschild015525	Rothschild015532
571	@MasonRothschild Twitter post dated December 1, 2021	OS-HERMES-0044	OS-HERMES-0044
572	Message from Mason Rothschild to OpenSea dated December 12, 2021	OS-HERMES-0021	OS-HERMES-0021

573	Message exchange between Mason Rothschild and OpenSea dated December 20, 2021	OS-HERMES-0022	OS-HERMES-0023
574	Message exchange between Mason Rothschild and OpenSea dated December 22, 2021, to December 27, 2021	OS-HERMES-0045	OS-HERMES-0047
575	Twitter direct messages between @asiancryptogirl and @masonrothschild dated December 6, 2021	Rothschild018426	Rothschild018427
576	Twitter direct messages between @asiancryptogirl and @masonrothschild dated December 6, 2021	Rothschild018475	Rothschild018476
577	Screenshot of Discord messages between walmart.eth and MasonRothschild dated December 1, 2021 (Exhibit 2 to Declaration of James Kerr dated October 19, 2022) (ECF No. 83-2)		
578	Screenshot of Discord messages between shoeman and cc dated December 2, 2021 (Exhibit 3 to Declaration of James Kerr dated October 19, 2022) (ECF No. 83-3)		
579	Mason Rothschild's public Instagram account (@masonrothschild)		
580	Terminal 27's public Instagram account (@terminal27)		
581	Terminal 27's website (www.terminal27.com)		
582	Gasoline's website (www.gasoline.xyz)		
583	Declaration of Mason Rothschild dated October 6, 2022		
584	Declaration of Nicolas Martin dated October 7, 2022		
585	Expert Report of Dr. Blake Gopnik, dated September 1, 2022		
586	Declaration of Dr. Blake Gopnik dated October 21, 2022		
587	Expert Report Submitted by Dr. Bruce Isaacson Measuring the Likelihood of Confusion Between MetaBirkins and Birkin Handbags, dated August 4, 2022		
588	Expert Report of David Neal, Ph.D., in Response to Expert Report of Dr. Bruce Isaacson, dated September 1, 2022		
589	Expert Report of Kevin D. Mentzer dated August 4, 2022		
590	Hermès website (www.hermes.com)		

591	Leah Bitsky, "North West attends Kanye's opera with \$10K Hermès Birkin bag," <i>Page Six</i> , December 23, 2019 (https://pagesix.com/2019/12/23/north-west-attends-kanyes-opera-with-10k-hermes-birkin-bag/)		
592	Maghan McDowell, "The 'Baby Birkin' NFT and the legal scrutiny on digital fashion," <i>Vogue Business</i> , June 15, 2021 (https://www.voguebusiness.com/technology/the-baby-birkin-nft-and-the-legal-scrutiny-on-digital-fashion)		
593	Vanessa Friedman, "Six Reasons to Get Excited About Fashion in 2023," <i>The New York Times</i> , January 5, 2023 (https://www.nytimes.com/2023/01/05/style/fashion-preview-2023.html)		
594	Jessica Rizzo, "The Future of NFTs Lies with the Courts," <i>Wired</i> , April 3, 2022 (https://www.wired.com/story/nfts-cryptocurrency-law-copyright/)		
595	YouTube video titled "Driving the GMC Hummer EV in Call of Duty: MW2 – DMZ" located at https://www.youtube.com/watch?v=bQpz29aAUic		
596	@barbarasegal public Instagram account		
597	Leonardo Da Vinci, <i>Mona Lisa</i> (c. 1503-19) (https://www.britannica.com/topic/Mona-Lisa-painting)		
598	Oxford English Dictionary		
599	Merriam-Webster Dictionary		
600	Hermès 2021 Universal Registration Document (Including the Annual Financial Report)	HERMES_0033150-HERMES_0033151	HERMES_0033177-HERMES_0033180
601	Hermès Half-year Financial Report dated June 2022		

Dated: January 18, 2023

Respectfully Submitted,

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